

# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

JANICE MCMONIGLE; AMBERLY OGDEN; MOLLY SLIWINSKI; and LAUREN WELLS,

On behalf of themselves and all others similarly situated,

Plaintiffs,

v.

BLACKOXYGEN ORGANICS USA, INC.; and MARC SAINT-ONGE,

Defendants.

CIVIL ACTION NO:

1:21-cv-04790-LMM

**DECLARATION OF MATTHEW WETHERINGTON**

COMES NOW Matthew Wetherington, under 28 U.S.C. § 1746, and certifies the following:

1. I am over 18 and suffering from no disability preventing me from providing truthful information.
2. I am the attorney of record for the above-named Plaintiffs and lead counsel for the certified class in this matter.
3. During the discovery phase of this case, Plaintiffs served at least sixteen subpoenas to companies associated with Defendants.

4. Plaintiffs counsel also created and marketed a “tips” line for individuals to submit information to support the class members’ claims.
5. Plaintiffs’ counsel directly contacted 79,622 potential class members to solicit additional information about the company and obtain preliminary claims for damages.
6. Plaintiffs’ counsel also created a website for preliminary claim submissions.
7. To submit a preliminary claim, each class member was required to provide a specific dollar amount, provide a receipt, and provide the following certification: “I hereby certify and swear under penalty that (a) I am a United States resident; (b) that I am not an employee, officer, or director of BlackOxygen Organics; and (c) the information provided herein is true and accurate.”
8. Approximately 5,554 individuals have submitted preliminary claims with a total dollar amount of 3,836,029.54. After additional screening for unsupported or fraudulent claims, the total dollar amount claimed was reduced to \$2,440,622.13.

9. Plaintiffs' counsel conducted in-depth interviews with over one hundred class members who had heightened knowledge of Defendants' business practices.
10. Through subpoenas and the tip line, Plaintiffs obtained over 20,000 documents spanning tens of thousands of pages related to the business operations of Defendants.
11. The data collected by Plaintiffs contains personally identifiable information of all sales conducted from June 1, 2019, through November 19, 2021.
12. Plaintiffs obtained comprehensive financial data, including customer lists and sales data from BlackOxygen's bookkeeping service, NumberCrunch. See **Exhibit B Declaration of Craig Hung**.
13. Plaintiffs obtained comprehensive credit card transaction data from BlackOxygen's credit card processor, Elavon. See **Exhibit D Timothy Frost Affidavit and Declaration**.
14. Plaintiffs also obtained *incomplete* banking information from other entities who were involved in providing financial services to Defendants.

15. For the certified class period of November 19, 2019, through November 19, 2021, there were 62,051 customers who purchased a total of 91,095 units of BlackOxygen products.
16. Inclusive of all purchases, including individuals excluded from the class definition, BlackOxygen sold 117,302 units of BlackOxygen products.
17. BlackOxygen reported \$1.8 million in annual revenue through its Canadian entity and \$10 million in annual revenue for its United States entity:

Average Sale Amount	CAD 200
Monthly Card Sales (Non-Amex)	CAD 150000
Amex Monthly Card Sales	\$ 10000
Company Annual Revenue	CAD 1800000
Description of Product/Service	health food vitamins
Highest Average Ticket	CAD 600
Previous Processor	
MCC	Health Food Stores (5499E)
Product Website	www.blackoxygenorganic.s.com

OTHER COMPANY INFORMATION			
♦ AVERAGE SALE AMOUNT: \$ 150.00			
♦ HIGH SALE AMOUNT: \$ 1500.00			
♦ NUMBER OF HIGH SALES (ABOVE) ANNUALLY: 500			
♦ TOTAL MONTHLY VISA/MC/AMEX/DISC/UNIONPAY SALES: \$ ██████████ 750,000.00			
♦ ANNUAL REVENUE: \$ 10 M			
♦ INDUSTRY TYPE: Internet			
♦ DESCRIPTION OF PRODUCT/SERVICES OFFERED: Nutritional Supplements			
SPECIAL PROGRAM MCC ONLY:			
WHEN DOES THE CUSTOMER RECEIVE THE PRODUCT OR SERVICE?			
IF NOT SAME DAY, 0-7 # OF DAYS (INCLUDE SHIPPING TIME FRAMES)			
IF SEASONAL, PLEASE CHECK MONTHS CLOSED BELOW: (CUSTOMER MUST CONTACT CUSTOMER SERVICE TO DEACTIVATE)			
<input type="checkbox"/> JANUARY	<input type="checkbox"/> FEBRUARY	<input type="checkbox"/> MARCH	<input type="checkbox"/> APRIL
<input type="checkbox"/> JULY	<input type="checkbox"/> AUGUST	<input type="checkbox"/> SEPTEMBER	<input type="checkbox"/> OCTOBER

11578243 CANADA, INC

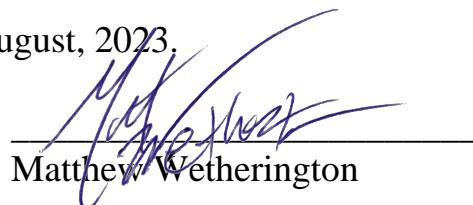
BLACKOXYGEN ORGANICS USA, INC

18. Black Oxygen's reported financial data is consistent with its sales data, as 117,302 multiplied by the \$95 retail price of BlackOxygen is \$11,143,690.

19. The certified class of 91,095 multiplied by the \$95 retail price of BlackOxygen is \$8,654,025.
20. Plaintiffs also obtained chargeback data for the class members. That data showed \$1,099,421 in chargebacks to class members.
21. The sum total of class member claims minus chargebacks/refunds is \$7,554,603.59.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 30th day of August, 2023,



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Matthew Wetherington